



**THE ATTORNEY GENERAL
OF TEXAS**

January 11, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Mr. John C. West, Jr.
Department of Public Safety
General Counsel
5805 N. Lamar Blvd.
P.O. Box 4087
Austin, Texas 78773-0001

Open Records Decision No. 516

Re: Whether section 3(a)(17) of the Texas Open Records Act, article 6252-17a, V.T.C.S., protects public employees' home addresses and telephone numbers from a request made pursuant to recent amendments to the federal child support provisions. (RQ-1517)

Dear Mr. West:

The Texas Attorney General's Child Support Enforcement Office in Houston requested information from the Department of Public Safety about one of the department's employees, a commissioned peace officer of the State of Texas. The Department of Public Safety provided certain of the requested information. The department refused, however, to furnish the officer's home address and telephone number because this information is not subject to disclosure under the Open Records Act. V.T.C.S. art. 6252-17a, § 3(a)(17). The Child Support Enforcement Office receives federal assistance under a program codified at section 651, et seq., of Title 42 of the United States Code. You ask whether federal law empowers the Child Support Enforcement Office to obtain information deemed exempt from disclosure under section 3(a)(17) of the Open Records Act.

Section 651 of Title 42 authorizes federal funding for enforcing the support obligation owed by absent parents to their children and the spouse (or former spouse) with whom such children are living, for locating absent parents' for establishing paternity, and for obtaining child and spouse support. The act requires the Secretary of the United States Department of Health and Human Services to establish a Federal Parent Locator Service to obtain information about the whereabouts of parents who are not fulfilling their support obligations. 42 U.S.C. § 653(a).

A state may receive federal assistance for a child support program implemented under a state plan approved by the Department of Health and Human Services. The act requires the secretary to review and approve state plans, evaluate the state's implementation of the program, and provide technical assistance to the states. The act also sets out the requirements of an approved state plan.

The state plan must, among other requirements,

(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing -

(A) all sources of information and available records.

42 U.S.C. § 654(8)(A). This provision requires that a state plan receiving federal assistance must establish a locator service and use all possible sources of information to locate absent parents.

Texas has a state plan approved by the United States Department of Health and Human Services. The Texas Attorney General's Office submitted and agreed to this state plan to provide child support collection and to locate absent parents. Tex. Human Res. Code § 76.001. The plan incorporates the requirement in section 654(8)(A) of the federal act.

The requirement in section 654 is general, however, and does not reach the level of the express statutory duty imposed by the act on the federal locator service to provide an authorized requestor with the most recent address and place of employment of the absent parent if such information is contained in the files of the Secretary of Health and Human Services, or those of another department or agency. See 42 U.S.C. § 653(b); Open Records Decision No. 448 (1986). The federal act enables the secretary to fulfill this obligation by requiring federal agencies and departments to transmit requested information to the secretary. 42 U.S.C. § 653(e)(2). No similar provision applies to state agencies.

Open Records Decision No. 448 (1986) explored a similar question. A child support enforcement office of another state requested information from the City of El Paso about one of its employees. That employee had exercised his option to deny public access to information relating to his home address under sections 3A and 3(a)(17) of the Open

Records Act. The opinion contrasted the generalized duty to cooperate with other states required by the federal act and incorporated in the state plan with the express statutory duty of the Federal Parent Locator Service to provide authorized persons with requested information. The decision concluded that neither the provisions of the state plan nor provisions of federal laws specifically require that Texas cooperate with other states by releasing a public employee's home address and telephone number in violation of the Texas Open Records Act.

Consequently, neither the federally-approved state child support plan or federal law grants the state or its local child support offices the authority to require that a state agency release information in violation of the Open Records Act. This does not, however, resolve your request. State law expressly authorizes the state agency administering the child support program to obtain records regarding the location of absent parents.

As administrator of the program, the attorney general may:

- (5) request agencies of the state and its political subdivisions to search their records to help locate absent parents.

Human Res. Code § 76.002(a)(5). The attorney general shall also

attempt to locate absent parents and is entitled to obtain records and information relating to the location, income, and property holdings of an absent parent from other state and local agencies. (Emphasis added.)

Human Res. Code § 76.002(c). Thus, the Attorney General's Child Support Enforcement Office of Houston has the express statutory authority to obtain the home address of a parent who is a peace officer and who is not fulfilling child support obligations.

You also express concern that this may be a prohibited disclosure under the Open Records Act. Section 3(a)(1) of the Open Records Act exempts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Section 3(a)(17) protects the home addresses and telephone

numbers of peace officers. Section 10(a) prohibits the release of information deemed confidential under the act.

Open Records Decision No. 169 (1977) considered whether the home addresses of public employees are public under the Open Records Act when those employees have objected to disclosure. Open Records Decision No. 169 concluded that as a general rule, the privacy principles incorporated in section 3(a)(1) do not protect one's home address. The decision also concluded that although the specific dangers incident to police work may warrant a finding that a privacy interest in an officer's home address should be recognized, an amendment to the Open Records Act would be required to support such an exception.

The Open Records Act was amended in 1979 to exempt the home addresses and telephone numbers of peace officers from public disclosure in order to protect these public employees from harassment related to their work.¹ Open Records Decision No. 475 (1987). Therefore, section 3(a)(17) now deems the home addresses of peace officers confidential information. As indicated, section 10(a) of the Open Records Act prohibits the release of confidential information. This section, however, was designed to prohibit the release of confidential information to the public. Open Records Decision No. 490 (1988).

It is well settled that the policy of this State is that state agencies should cooperate with each other in the interest of the efficient and economical administration of their statutory duties. Attorney General Opinion H-683 (1975). In Attorney General Opinion H-242 (1974), this office reaffirmed the need to "maintain an unrestricted flow of information between state agencies." See also Attorney General Opinion M-713 (1970). The Open Records Act does not undercut that policy. Attorney General Opinion H-683 (1975).

It is also well settled that information that is exempt from public disclosure under the Open Records Act may be transferred between state agencies without destroying its

1. The 69th Legislature amended section 3(a)(17) of article 6252-17a, V.T.C.S., to protect all public employees' home addresses and phone numbers if they elected to close the information under section 3A of the act. Acts 1985, 69th Leg., ch. 750, at 2573.

confidential character, if the agency to which the information is transferred has the authority to obtain it. Attorney General Opinions H-917 (1976); H-242 (1974); Open Records Decision No. 272 (1981). Therefore, the Department of Public Safety will not violate the privilege of confidentiality under section 3(a)(17) by transferring a peace officer's home address to the Child Support Enforcement Office. Nor will the department violate section 10(a) of the act because such interagency transfers of information are not considered "public" disclosure. Open Records Decision No. 468 (1987); see Attorney General Opinion M-713 (1970).

Further, communication of a peace officer's home address to the Child Support Enforcement Office will not increase the danger of public disclosure of the information, because the Child Support Enforcement Office is subject to confidentiality requirements under the state plan and its enabling act. Section 76.006 of the Human Resource Code provides:

All files and records on recipients of benefits provided under this chapter and on an alleged father of an illegitimate child are confidential. Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent locator, or aid to families with dependent children programs. (Emphasis added.)

Thus, the names and addresses of those involved with Child Support Services are confidential pursuant to state laws. Attorney General Opinion M-713 (1970); see also Open Records Decision No. 417 (1984).

S U M M A R Y

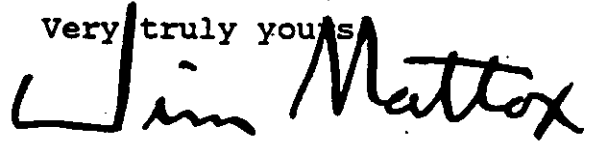
The federal requirements for a state child support plan under sections 653 and 654 of Title 42 of the United States Code do not impose a duty on state agencies to provide information in violation of the Texas Open Records Act, article 6252-17a, V.T.C.S., to the state agency administering the child support program. Nor does the state plan or the federal act authorize the state agency administering the plan, the Texas Attorney General's Office, to order the release of

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records. Section 76.002 of the Human Resources Code, however, grants the Texas Attorney General the express authority to obtain information relating to the location of absent parents from state and local agencies.

The Texas Department of Public Safety must provide home addresses of peace officers to the Attorney General's Child Support Enforcement Office for the office's internal, confidential use. Such disclosure does not violate section 10(a) of the Open Records Act.

Very truly yours

A handwritten signature in dark ink that reads "Jim Mattox". The signature is written in a cursive, flowing style. The first name "Jim" is written with a large, prominent "J" and "i". The last name "Mattox" is written with a large "M" and a long, sweeping "x" at the end.

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